

Exhibit A

LAWYERS' COMMITTEE FOR CIVIL
RIGHTS OF THE SAN FRANCISCO BAY AREA
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Toro Castaño, Sarah Cronk, Joshua Donohoe,
Molique Frank, David Martinez, Teresa Sandoval,
Nathaniel Vaughn*

Additional Counsel Appear on Signature Page

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

COALITION ON HOMELESSNESS; TORO
CASTAÑO; SARAH CRONK; JOSHUA
DONOHUE; MOLIQUE FRANK; DAVID
MARTINEZ; TERESA SANDOVAL;
NATHANIEL VAUGHN,

Plaintiffs.

v.

CITY AND COUNTY OF SAN FRANCISCO;
SAN FRANCISCO POLICE DEPARTMENT;
SAN FRANCISCO DEPARTMENT OF
PUBLIC WORKS; SAN FRANCISCO
DEPARTMENT OF HOMELESSNESS AND
SUPPORTIVE HOUSING; SAN FRANCISCO
FIRE DEPARTMENT; SAN FRANCISCO
DEPARTMENT OF EMERGENCY
MANAGEMENT,

Defendants.

CASE NO. 4:22-cv-05502-DMR

**SECOND AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

1 1343(a)(3) and (4), 42 U.S.C. § 12132, and 42 U.S.C. § 1983 because Plaintiffs' claims arise under
 2 the laws and Constitution of the United States.

3 15. The Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and Federal
 4 Rules of Civil Procedure 57 and 65 authorize this Court to grant Plaintiffs the declaratory and
 5 injunctive relief prayed for herein. An award of attorneys' fees is authorized pursuant to 42 U.S.C.
 6 § 1988(b).

7 16. This Court has supplemental jurisdiction over Plaintiffs' related state law claims
 8 pursuant to 28 U.S.C. § 1367(a) because those claims form part of the same case or controversy
 9 under Article III of the United States Constitution. Plaintiffs' state law claims share all common
 10 operative facts with their federal law claims, and the parties are identical. Resolving Plaintiffs'
 11 federal and state claims in a single action serves the interests of judicial economy, convenience,
 12 consistency, and fairness to the parties.

13 17. Venue is proper in the United States District Court for the Northern District of
 14 California pursuant to 28 U.S.C. §§ 1391(b)(1) and (b)(2) because at least one of the Defendants
 15 resides in this district and a substantial part of the events and/or omissions were committed in this
 16 district.

17 18. Because the events and omissions giving rise to Plaintiffs' claims occurred in San
 18 Francisco County, this case should be assigned to the Northern District's San Francisco Division
 19 or its Oakland Division. N.D. Cal. L.R. 3-2(d).

20 **PARTIES**

21 **A. PLAINTIFFS**

22 **1. Coalition on Homelessness**

23 19. The Coalition on Homelessness (the "Coalition") is a 501(c)(3) non-profit with the
 24 mission to find permanent solutions to homelessness while recognizing the dignity and human
 25 rights of unhoused people. Through community organizing and advocacy, the Coalition fights to
 26 prevent people from becoming homeless, presses for affordable housing in San Francisco, and
 27 advocates to expand resources available to unhoused people including mental health treatment,
 28 emergency shelter, and basic necessities.

20. The Coalition envisions a San Francisco in which every human being can have and maintain decent, habitable, safe, and secure housing. This means that economic justice, housing advocacy, and supports to exit homelessness are the main focus of the Coalition's work. The Coalition's housing-related work has included getting the City to fund an emergency hotel voucher program for families and securing housing subsidies for unhoused individuals. In 2018, for example, the Coalition was the author of Proposition C, which was a ballot measure calling for a gross receipts tax on all businesses receiving more than \$50 million in revenues annually. The tax was to help fund the City's affordable housing projects. With the Coalition's sustained advocacy, Proposition C passed. It has already brought more than \$492 million to fund affordable housing programs that will help end homelessness in San Francisco—if used correctly. Mayor London Breed actively opposed the measure.¹⁶

21. The Coalition also seeks to build networks of support for unhoused people through organizer and peer-led outreach campaigns and to connect unhoused people to social services and resources. This proactive work requires daily engagement with unhoused communities across San Francisco. It also engages volunteers and donors to provide unhoused people with the basic necessities they need to survive while living unsheltered.

22. Over the past several years, the Coalition made the difficult choice to depart from its mission-related activities—proactive housing and homelessness prevention and support work—to focus on the dire need to protect unhoused people from the City's ongoing criminalization and property destruction practices. The Coalition has also spent some of its limited donor dollars to replace survival gear for unhoused people that the City of San Francisco has destroyed.

The Coalition is an advocacy organization of, by, and for unhoused people in San Francisco. Its members are comprised almost entirely of unhoused people or people with lived experience of homelessness who supervise, direct, and lead the Coalition's work. The Coalition has dozens of

¹⁶ See Dominic Fracassa, *Three SF elected leaders announce opposition to Prop. C—raising business taxes for homeless services*, S. F. CHRONICLE (Oct. 5, 2018), <https://www.sfchronicle.com/bayarea/article/Three-SF-elected-leaders-announce-opposition-to-13285614.php>.

active members at any given time and has had thousands of active members over the years. Many of the Coalition's active members have been personally impacted by citations, arrests, law enforcement threats, and property destruction while living unsheltered in San Francisco. The displacement of unhoused people and the City's constant sweeps¹⁷ make it much more difficult for the Coalition to stay in contact with or to maintain and secure new active members.

2. Nathaniel Vaughn

23. Nathaniel Vaughn is a Black man who was born and raised in San Francisco. Unfortunately, Mr. Vaughn's family lost the home they were renting in 2019 due to financial constraints and unaffordable rents in San Francisco. Although Mr. Vaughn's mother successfully secured a Single Room Occupancy unit (SRO) due to her medical conditions, Mr. Vaughn was left with nowhere to go. From 2019 to 2020, Mr. Vaughn experienced regular harassment by San Francisco Police Department ("SFPD") and Department of Public Works ("DPW"). This included being forced to move under threat of citation and arrest at least once a month. Mr. Vaughn recently settled a claim against the City and County of San Francisco for \$7,000 after a judge found that the City had destroyed his personal property while he was homeless, including his tent, survival gear, a suitcase full of sports collector cards, and his godmother's ashes—among other items.

24. Mr. Vaughn was finally able to secure placement in an affordable SRO after these harrowing experiences. But Mr. Vaughn now faces the potential threat of eviction at a time when the City is carrying out massive SRO evictions.¹⁸ Mr. Vaughn would have no way of finding

¹⁷ A "sweep"—which the City calls an "encampment resolution"—is a City-led operation to clear homeless people and their property off of public property. Such sweeps usually start around 7 a.m. and include representatives from DPW and the SFPD, among others. See Michelle Robertson, *An interview with the controversial San Francisco agency responsible for conducting homeless sweeps*, SF GATE (Aug. 25, 2021), <https://www.sfgate.com/bay-area-politics/article/sf-homeless-sweeps-encampment-resolution-hsoc-16400951.php>.

¹⁸ See Joaquin Palomino & Trisha Thadani, *The Breed administration offered them homes. Then it spent millions to kick them out*, S. F. CHRONICLE (Aug. 25, 2022), <https://www.sfchronicle.com/projects/2022/sf-sro-evictions/>; Joaquin Palomino & Trisha Thadani, *S.F. is evicting its most vulnerable tenants closer to pre-pandemic levels. But official numbers don't show scope of the crisis*, S. F. CHRONICLE (Sept. 6, 2022), <https://www.sfchronicle.com/sf/article/S-F-is-evicting-its-most-vulnerable-tenants-17423437.php>.

1 and without a place he could afford—he became homeless by the age of 20. Mr. Frank became a
 2 recreational drug user once we has forced onto the streets. Thus began a cycle of incarceration for
 3 various offenses spurred by the conditions of his poverty. Mr. Frank finally broke that vicious
 4 cycle and his addiction in 2018. But he has never been able to find affordable housing in the City
 5 where he grew up.

6 28. Over the past several years, Mr. Frank was repeatedly harassed by the City—
 7 including SFPD and DPW—just for being homeless and sleeping outside. Mr. Frank was
 8 physically assaulted by both an SFPD officer and a DPW worker while pleading with them not to
 9 destroy his belongings. Mr. Frank recently settled a claim against the City and County of San
 10 Francisco for \$5,000 after the City destroyed his personal property while he was homeless,
 11 including backpacks containing essential survival gear, his X-Box One, and sentimental photos—
 12 among other items.

13 29. After years of struggling to make ends meet, being forced out onto the street due to
 14 unaffordable rents as a youth, experiencing incarceration, and battling ongoing homelessness, Mr.
 15 Frank had finally been able to secure safe and stable temporary housing through the City’s Shelter-
 16 in-Place (“SIP”) program that began during COVID-19. This was a victory after a lifetime of
 17 housing instability in San Francisco. As of August 2022, however, Mr. Frank was informed that
 18 every unhoused person living in his building is to be evicted by the end of September 2022.

19 30. Mr. Frank was subsequently approved to transfer to another shelter after being
 20 notified that his current SIP hotel would be closing down. However, this is still a temporary
 21 placement. Mr. Frank meets the U.S. Department of Housing and Urban Development (“HUD”)
 22 definition of homelessness, as he is currently residing in temporary shelter. *See* 24 CFR 91.5. Mr.
 23 Frank fears that if he loses this temporary placement, he will become unsheltered again and be
 24 subject to the City’s regular criminalization threats and property destruction.

25 5. Teresa Sandoval

26 31. Teresa Sandoval is a Hispanic and Native woman living in San Francisco. She is a
 27 double amputee who uses either a wheelchair or prosthetics for mobility. Over the past several
 28 years, Ms. Sandoval has been repeatedly harassed by the City—including by SFPD and DPW. Ms.

has taken, and has sought additional funding for its unlawful sweep operations.²⁰

44. Mayor Breed's office has had knowledge of and has participated in planning at least two large-scale sweep operations that unlawfully displaced unhoused individuals.²¹

45. Sam Dodge, in his role as HSOC director, is responsible for leading the City's homelessness sweeps, including directing City agencies to seize the property of unhoused people and threaten them with citation and arrest despite not having sufficient shelter to offer these individuals. Mr. Dodge has also failed to train staff regarding the constitutional and legal requirements prior to conducting sweep operations against unhoused people.

2. San Francisco Police Department

46. The San Francisco Police Department ("SFPD") is an agency of the City and County of San Francisco. SFPD and its officers have a custom and practice of citing, fining, and arresting—as well as threatening to cite, fine, and arrest—unhoused people who have no choice but to shelter in public because San Francisco has not provided sufficient or adequate shelter to accommodate them. SFPD also coordinates with other agencies on a daily basis to respond to

²⁰ See, e.g., Press Release, Off. of the Mayor, *supra* note 7 (noting that the Mayor has "Mayor London N. Breed announced a 34% reduction in tents on the streets of San Francisco since she took office in July, a reduction of approximately 193 tents in less than four months [...] she has expanded the resources for Healthy Streets Operations Center (HSOC)"); Mallory Moench, *supra* note 7 ("With the city getting people off the streets, the city's emergency response team [the Healthy Streets Operation Center] put pressure on Public Works to remove toilets, as revealed by emails first released by an anonymous account on Twitter and available via public records request"); Mayor's Proposed Budget FY 2019-20 and 2020-21, *supra* note 7, at 19, ("To continue the positive work of HSOC and to ensure that HSOC continues to be a service-first approach to addressing unsheltered homelessness and unhealthy street behavior, the two-year budget includes over \$4.0 million to sustain existing services in participating departments").

²¹ Amy Sawyer of the Mayor's Office was copied on and referenced in an email from June 4, 2021 discussing a sweep on Willow Street prior to a large event Mayor Breed would be attending, in which Jeff Kositsky requested 18 shelter beds for 41 tents; see also See David Sjostedt, *Police Clear Homeless Encampment Days After Mayor's Tweet, Prompting Questions About Legality of Such Sweeps*, THE S. F. STANDARD (Jun. 6, 2022), <https://sfstandard.com/public-health/homelessness/police-clear-homeless-encampment-days-after-mayors-tweet-prompting-questions-about-legality-of-such-sweeps/> (noting June 2022 sweep of visibly homeless people near the Ferry Building).

one of the wealthiest places in the world, it has stood by and allowed its low-income residents to be displaced and thrust into homelessness.⁵⁵

C. The City Blames Unhoused People for the Crisis it Caused, Subjecting Residents to a Renewed Era of Failed Mass Incarceration Policies, Criminalization, and Racist Policing as a Punishment for Being Poor.

67. Instead of taking responsibility for its role in creating the homelessness crisis, San Francisco cracks down with criminal penalties on the low-income residents it has driven into homelessness.⁵⁶ The City “has more anti-homeless ordinances on its book than any other California and possibly U.S. city.”⁵⁷ It seeks to erase any trace of unhoused people from public space, reflecting a deep “disdain for visible poverty.”⁵⁸ In her remarks and actions, Mayor London Breed has also raised the specter that unhoused people are a blight to be removed from sight.⁵⁹

metropolitan income inequality data reveal ups and downs through 2016, BROOKINGS INSTITUTION (Feb. 5, 2018) <https://www.brookings.edu/research/city-and-metropolitan-income-inequality-data-reveal-ups-and-downs-through-2016/> (identifying San Francisco as one of the cities with the highest income inequality in the United States).

⁵⁵ Georgina McNee & Dorina Pojani, *NIMBYism as a barrier to housing and social mix in San Francisco*, J. HOUS. & THE BUILT ENVIRON. 37, 553–573 (2022). <https://doi.org/10.1007/s10901-021-09857-6> (“Planning meetings appear to be dominated by older, white, and financially stable residents, and this is a major (though not sole) barrier to the city’s social mix”).

⁵⁶ See Mallory Moench, *Mayor Breed Promised to Bring Tough Love to the Troubled Tenderloin. Did She Deliver?*, SF Chronicle (Apr. 15, 2022), <https://www.sfchronicle.com/sf/article/san-francisco-mayor-tenderloin-17082180.php> (quoting Mayor Breed’s pledge to be “more aggressive with law enforcement” in the Tenderloin).

⁵⁷ Chris Herring, *Complaint-Oriented Policing: Regulating Homelessness in Public Space*, 84 Am. Soc. Rev., No. 5, Oct. 2019, at 769, 790, 794.

⁵⁸ See Sara K. Rankin, *supra* note 15 at 102-104 (2019).

⁵⁹ See David Marks, *SF Mayor Breed Declares State of Emergency in Tenderloin*, KQED (Dec. 17, 2021), <https://www.kqed.org/news/11899726/sf-mayor-breed-declares-state-of-emergency-in-tenderloin> (quoting S.F. Mayor London Breed as saying, “too many people are sprawled over our streets” . . . “There are a number of things that this city is going to do to address public safety, and part of that is a police response.”); David Sjostedt, *supra* note 26 (discussing city response to presence of visibly homeless people near the Ferry Building); Press Release, Off. of the Mayor,

1 more efficient to expend resources on non-punitive alternatives like permanent housing.⁶⁷

2 72. In 2015, for example, San Francisco spent at least \$20 million to enforce quality-
 3 of-life ordinances against homeless individuals.⁶⁸ This is quite likely a massive undercount of San
 4 Francisco's direct spend on annual criminalization efforts that do not work.⁶⁹ Meanwhile, San
 5 Francisco's choice not to make affordable housing available for its unhoused residents imposes
 6 hundreds of millions of dollars in downstream costs every year by straining the City's healthcare,
 7 social service, and legal systems.⁷⁰

8 73. In Santa Clara County—a county with a comparable population of unhoused people
 9 to San Francisco—a comprehensive study found that the county indirectly spent over \$520 million
 10 annually on its healthcare, criminal, and social services systems as a result of leaving people
 11 unhoused and not directly addressing homelessness. **Even a preliminary tally of some of San**

13 ⁶⁷ See e.g., Rankin, *Punishing Homelessness*, *supra* note 15, at 104, 109 ([C]riminalization, along
 14 with other traditional approaches that manage homelessness, are the most expensive and least
 15 effective ways to address it"); Joshua Howard et al., *At What Cost: The Minimum Cost of*
 16 *Criminalizing Homelessness in Seattle and Spokane*, HOMELESS RIGHTS ADVOC. PROJECT, (May
 17 8, 2015) <https://digitalcommons.law.seattleu.edu/hrap/10> (finding that over a five year period,
 18 Seattle spent a minimum of \$2.3 million enforcing just 16% of its criminalization ordinances and
 Spokane spent a minimum of \$1.3 million enforcing 75% of its criminalization ordinances and
 concluding that non-punitive alternatives, such as building housing are more effective “in terms of
 cost and in terms of addressing the underlying problems of homelessness”).

19 ⁶⁸ Policy Analysis Report: *Homelessness and the Cost of Quality of Life Laws*, S.F. BUDGET AND
 20 LEGIS. ANALYST OFFICE (2016) <http://2zwmzkbocl625qdrf2qqqfok-wpengine.netdna-ssl.com/wp-content/uploads/2016/06/Budget-and-Legislative-Analyst-Report.Quality-of-Life-Infactions-and-Homelessness.052616-1.pdf>

22 ⁶⁹ See, e.g., Herring & Yarbrough, *supra* note 10, at 66-68 (discussing difficulty of determining
 23 exact costs and noting that it is a political decision to intentionally overlook and ignore reporting
 on the costs of enforcing these laws).

24 ⁷⁰ See, e.g., Ballard & Batko, *supra* note 67 (discussing costliness of homelessness-jail, whereby
 25 unhoused people cycle in and out of jail, shelters, rehabilitation centers, and emergency care);
 26 Cunningham, *supra* note 70; Gregory A. Shinn, *Rethink Homelessness & Impact Homelessness,*
 27 *The Cost Of Long-Term Homelessness In Central Florida: The Current Crisis and the Economic*
 28 *Impact of Providing Sustainable Housing Solutions* 15-17, 20 (2014), CENT. FLA. COMM'N ON
 HOMELESSNESS <https://shnny.org/uploads/Florida-Homelessness-Report-2014.pdf> (discussing how
 long-term homelessness is expensive to the community and that the cost of doing nothing is
 substantial).

Francisco's direct expenditures on homelessness-related services indicates the annual cost of homelessness—a cost ultimately borne by taxpayers—is at least similar to that of Santa Clara⁷¹, if not significantly higher.⁷²

74. In this context, making affordable housing available would be a far more prudent investment than the City's destructive and costly practice of forcing unhoused people to cycle through different streets, jails, hospitals, and temporary shelters. To meet its housing goals for low-income and very low-income units, San Francisco would need to build 6,624 new affordable units, which would cost about \$4.8 billion.⁷³ That would be enough to house every currently unsheltered San Franciscan. Assuming San Francisco indirectly spends about the same annually on

⁷¹ See SANTA CLARA CNTY. OFF. OF SUPPORTIVE HOUS., *Santa Clara County Homeless Census and Survey Reports*, <https://osh.sccgov.org/continuum-care/reports-and-publications/santa-clara-county-homeless-census-and-survey-reports> (documenting trends in Santa Clara's unhoused population); Santa Clara County Continuum of Care, *How does Santa Clara County compare to other jurisdictions?*, https://osh.sccgov.org/sites/g/files/exjcpb671/files/2017%20PIT%20CoC_Comparisons.pdf (comparing Santa Clara to San Francisco); Molly Turner, *Homelessness in the Bay Area*, SPUR (Oct. 23, 2017), <https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area> ("San Francisco and Santa Clara counties have some of the nation's highest percentages of homelessness.").

⁷² See e.g., DEP'T OF HOMELESSNESS & STRATEGIC HOUS., *Five Year Strategic Framework*, (Oct. 2017), <https://hsh.sfgov.org/wp-content/uploads/2017/10/HSF-Strategic-Framework-Full.pdf> (noting the city spent \$256.7 million on homelessness services through HSH in 2017); S.F. DEP'T OF PUB. HEALTH., *Annual Report FY 2020-2021*, https://www.sfdph.org/dph/files/reports/PolicyProcOfc/FINAL-Annual_Report_FY2021.pdf (noting city spent \$28 million on a mental health initiative for unhoused people in 2020); S.F. DEP'T OF PUB. HEALTH, *Mental Health San Francisco Implementation Plan*, https://www.sfdph.org/dph/files/IWG/MHSF_Implementation_Report_Feb.2022.pdf (noting city is poised to spend another \$60 million for mental health services serving unhoused people); BAY AREA COUNCIL ECON. INST., *Bay Area Homelessness: A Regional View of a Regional Crisis* (noting city spent \$54 million on street cleaning in 2018). None of these sources include the cost of physical health services—health services were the largest source of spending in the Santa Clara study.

⁷³ See 2020 Housing Inventory, *supra* note 55 at 15 (noting deficit of 6,624 units); BAY AREA COUNCIL ECON. INST., *How Much Does it Cost to Construct One Unit of Below Market Housing in the Bay Area?*, <http://www.bayareaeconomy.org/how-much-does-it-cost-to-produce-one-unit-of-below-market-housing-in-the-bay-area/#:~:text=In%202019%2C%20the%20average%20construction,of%20below%20market%20rate%20housing> (identifying that producing a single unit of affordable housing costs around \$700,000 in San Francisco).

homelessness as Santa Clara does—\$520 million—and it instead chose to invest that sum in affordable housing, the City would be able to build 742 of those new units per year and could actually stem, and even end, the homelessness crisis.⁷⁴

75. This necessary investment in affordable housing pales in comparison to the hundreds of millions of taxpayer dollars San Francisco hemorrhages each year as a consequence of keeping its residents unhoused and forced to sleep on the City’s streets or in temporary shelter.

76. In addition to being unjustifiably costly, criminalization harms unhoused people and puts our communities at further safety risk.⁷⁵ Criminalization does not reduce the presence of unhoused people in public space, it only makes unhoused people less likely to seek or to receive social services and supports (of which there is already an unmet need). The criminal eviction of unhoused people from public areas also has no discernible impact on economic activity at storefront businesses.⁷⁶

77. Solving homelessness is possible.⁷⁷ Studies have consistently shown that housing is the answer.⁷⁸ Affordable housing is cost-effective and makes communities safer by investing in long-term stability and community growth. The City need not continue expending vast resources criminalizing its unhoused population when it could invest in the only permanent, cost-effective

⁷⁴ *See id.*

⁷⁵ *See Rankin, supra* note 15, at 108, 113-14 (discussing consequences of ordinances and concluding that they emotional and psychological tolls on encampment residents, exacerbate existing physical and mental health problems, and “render chronically homeless people more resistant to recovery and more likely to remain homeless, to become sick, to self-medicate, to be incarcerated, and even to die.”).

⁷⁶ Herring & Yarbrough *supra* note 10, at 61, 67; Berkeley Law Policy Advocacy Clinic, Does Sit-Lie Work: Will Berkeley’s “Measure S” Increase Economic Activity And Improve Services To Homeless People, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2165490 (finding no meaningful evidence to support claims that sit-lie ordinances increase economic activity).

⁷⁷ Rankin, *supra* note 15, at 130-34. (“Studies consistently show that solving chronic homelessness is achievable through the evidence-based solutions of Housing First and permanent supportive housing”).

⁷⁸ *Id.*

1 solution to its homelessness crisis—affordable housing.⁷⁹

2 78. Nonetheless, San Francisco has repeatedly failed to approve measures that would
3 rapidly expand the building of affordable housing.⁸⁰ The City has also failed to appropriately and
4 promptly spend hundreds of millions of annual Proposition C tax dollars that are specifically
5 allocated to address permanent solutions to the City’s homelessness crisis.⁸¹

6 **FACTUAL ALLEGATIONS**

7 A. San Francisco Does Not Have Enough Shelter Beds to House Thousands of its 8 Unhoused Residents, Forcing Unhoused People to Sleep on the Streets.

9 79. San Francisco does not have sufficient and adequate shelter to accommodate those
10 currently experiencing homelessness in the City. This is true on any given day, yet the City
11 nonetheless conducts regular sweeps across the City.

12 80. According to San Francisco’s 2019 Homeless Count and Survey, there were 8,035
13 homeless individuals residing in the City.⁸² On the night the City conducted a count of its homeless
14 population, the City counted 5,180 individuals—or 64% percent of the City’s homeless
15
16
17

18 ⁷⁹ See e.g., *id.* at 104 (“[N]on-punitive alternatives, such as permanent supportive housing, are the
19 most cost-effective ways to solve chronic homelessness.”); Samantha Batko, *We Can End*
20 *Homelessness through Housing First Interventions*, URBAN INST. (Feb. 12, 2020)
<https://www.urban.org/urban-wire/we-can-end-homelessness-through-housing-first-interventions>.

21 ⁸⁰ For example, the City has chosen not to use federal and state funds to immediately create
22 affordable housing options for the unhoused. See, e.g., STREET SHEET, *An Unprecedented Golden*
23 *Opportunity* (May 20, 2021), [https://streetsheet.medium.com/an-unprecedented-golden-](https://streetsheet.medium.com/an-unprecedented-golden-opportunity-a28150b601b9)
24 [opportunity-a28150b601b9](https://streetsheet.medium.com/an-unprecedented-golden-opportunity-a28150b601b9) (noting that the City could, but has not, invest in a series of building
purchase programs that would immediately create affordable housing options for the unhoused).

25 ⁸¹ See J.D. Morris, *Here’s how much San Francisco has spent of \$600 million in Prop. C money*
26 *slated for homeless services*, S. F. CHRONICLE (May 27, 2022),
[https://www.sfchronicle.com/sf/article/Here-s-how-much-San-Francisco-spent-prop-C-tax-](https://www.sfchronicle.com/sf/article/Here-s-how-much-San-Francisco-spent-prop-C-tax-17202036.php)
27 [17202036.php](https://www.sfchronicle.com/sf/article/Here-s-how-much-San-Francisco-spent-prop-C-tax-17202036.php) (“San Francisco has only spent about a quarter of the funds it has available from a
2018 business tax that voters approved to make massive investments in homeless services”).

28 ⁸² San Francisco Homeless Count & Survey Comprehensive Report 2019, *supra* note 11, at 10.

population—as unsheltered.⁸³ The City counted 2,855 individuals in the shelter count.⁸⁴ Although San Francisco had 3,493 shelter beds available in 2019, the number of beds was far insufficient to shelter San Francisco’s entire population.⁸⁵ In 2021, because of a temporary COVID-19 program, the City modestly increased its shelter capacity to provide 5,080 shelter beds.⁸⁶ This was still approximately 3,000 beds short of what would have been necessary to shelter every unhoused San Franciscan.

81. According to San Francisco’s 2022 Homeless Count and Survey, there were 7,754 unhoused people in San Francisco on a given day and as many as 20,000 individuals may experience homelessness in San Francisco over the course of a full year.⁸⁷ The City’s total shelter bed availability during the same time period remained at only 5,080 beds.⁸⁸ The City is thus, by its own count, thousands of shelter beds short.

82. The shortage is getting worse. The present shelter inventory includes 2,263 temporary Shelter-in-Place hotel rooms for COVID-19 that will be phased out entirely by the end of FY21-22.⁸⁹ San Francisco is already keeping the majority of these temporary COVID beds vacant in anticipation of an end to supplemental federal funding for the temporary Shelter-in-Place program. Without the COVID beds, the 2019 count is most accurate: only 3,493 beds are actually available, meaning a shortage of at least 4,400 beds.⁹⁰

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ San Francisco 2021 Sheltered Point-in-Time Count 4, S.F. DEP’T OF HOMELESSNESS & SUPPORTIVE HOUSING (2021), <https://hsh.sfgov.org/wp-content/uploads/2021/09/2021-Sheltered-PIT-Count.pdf>.

⁸⁶ *Id.* at 4 (identifying that 2,263 temporary shelter beds added due to COVID-19 “will be phased out in FY21-22”).

⁸⁷ San Francisco Homeless Count & Survey Comprehensive Report 2022, at 2, S.F. DEP’T OF HOMELESSNESS & SUPPORTIVE HOUSING (2022), <https://hsh.sfgov.org/wp-content/uploads/2022/08/2022-PIT-Count-Report-San-Francisco-Updated-8.19.22.pdf>.

⁸⁸ San Francisco 2021 Sheltered Point-in-Time Count, *supra* note 90, at 4.

⁸⁹ *Id.* at 4 (identifying that 2,263 temporary shelter beds added due to COVID-19 “will be phased out in FY21-22”).

⁹⁰ *Id.* at 3 (noting 3,493 available shelter beds as of January 2019).

1 policies were not only ineffective, but also confusing for the City employees seeking to enforce
 2 them.⁹⁷ In 2020, the City announced a shift in strategy to respond to street encampments in the
 3 face of criticism that HSOC was operating without community engagement and was responding
 4 to unhoused people with policing rather than needed services.⁹⁸

5 102. HSOC now characterizes itself as “a collaborative effort of multiple City
 6 departments” that aims “to coordinate the City’s response both to homeless encampments and to
 7 behaviors that impact quality of life in San Francisco’s public spaces.”⁹⁹

8 103. As an interdepartmental taskforce, HSOC consists of the following five primary
 9 agencies: the San Francisco Police Department (“SFPD”), the Department of Public Works
 10 (“DPW”), the Department of Homelessness and Supportive Housing (“HSH”), the Department
 11 of Public Health (“DPH”), and the Department of Emergency Management (“DEM”).¹⁰⁰

12 104. HSOC is governed by the directors of each of these five departments as well as
 13 representatives from the Mayor’s office.¹⁰¹ But HSOC’s daily operations and practices are
 14 spearheaded by HSOC’s Director—who is a City employee based in the DEM.

15
 16 ⁹⁷ A memorandum from June 9, 2018, written by Jeff Kositsky, HSOC’s manager, communicated
 17 an ongoing list of issues and concerns that the Department of Homelessness and Supportive
 18 Housing had been amassing about HSOC since February of 2018. Included in this list was that
 19 “[a]ll participating agencies should be communicating action through HSOC; there are
 20 SFPD/DPW actions taking place earlier that create a great deal of confusion with field staff.”

21 ⁹⁸ See Joshua Sabatini, *SF to make major changes to homeless response operations*, S. F.
 22 EXAMINER (Mar. 2, 2020), [https://www.sfexaminer.com/archives/sf-to-make-major-changes-to-](https://www.sfexaminer.com/archives/sf-to-make-major-changes-to-homeless-response-operations/article_f9f9d928-c70a-50a0-b5a4-bae0b1784b93.html)
 23 [homeless-response-operations/article_f9f9d928-c70a-50a0-b5a4-bae0b1784b93.html](https://www.sfexaminer.com/archives/sf-to-make-major-changes-to-homeless-response-operations/article_f9f9d928-c70a-50a0-b5a4-bae0b1784b93.html); OFF. OF
 24 BUDGET & LEGIS. ANALYST, Policy Analysis Report: Police Department Role in Street Teams,
 CITY & CNTY. OF S. F. BD. OF SUPERVISORS (Apr. 19, 2022),
https://sfbos.org/sites/default/files/BLA.SCRT_HSOC_041922.pdf (noting that after HSOC
 began “efforts have been made to de-emphasize the law enforcement nature of City policy towards
 homeless encampments, and to enhance service referrals and mental health and substance abuse
 outreach”).

25 ⁹⁹ Healthy Streets Data and Information, CITY & CNTY. OF SAN FRANCISCO,
 26 <https://sfgov.org/scorecards/hsoc> (last visited July 29, 2022).

27 ¹⁰⁰ Review of the Healthy Streets Operation Center, *supra* note 27, at 12.

28 ¹⁰¹ *Id.* at 13.

SFPD officers often have no information about or ability to offer shelter beds without other City agencies that are not dispatched. *Cf.* SFPD Bulletin No. 19-080 (before an order to vacate can be criminally enforced for non-compliance, SFPD is required to confirm that there has been a “written offer of shelter or housing at least 24 hours before ordering removal of a tent or encampment”).

149. SFPD conducts these regular enforcement activities despite knowing that the City lacks sufficient shelter to house its unhoused population and knowing that unhoused people have no voluntary access to shelter in the City. These SFPD enforcement operations happen everywhere across the city and at all hours, including the middle of the night.

150. SFPD has an explicit custom and practice of authorizing its officers to cite and arrest unhoused people for failing to “move along” without any attempt to offer shelter, as long as the officers are policing in area where an HSOC sweep has already taken place. SFPD’s “mission descriptions” lists the “goal of re-encampment prevention is to re-secure and clean areas where there have been encampment resolutions and to ensure no tents, structures and vehicles remain. In general, sheltering options will not be offered unless there is an urgent situation[.]” (emphasis in original).¹²⁰ SFPD uses this practice to threaten individuals with citation or arrest whether or not there is present shelter availability, and regardless of whether they ever received an offer of services at a prior sweep operation. **SFPD also has its own pick-up truck out of its Tenderloin station that it uses to remove property illegally as well.**

151. Similarly, DPW dispatches to perform street cleaning in different neighborhoods across San Francisco on a daily basis and conducts informal sweep operations to displace unhoused people as a part of that process. DPW interacts with hundreds of unhoused individuals each month. Yet, contrary to its stated policies, DPW consistently seizes and disposes of homeless individuals’ valuable personal property and survival gear without following the City’s Bag and Tag policies.

¹²⁰ HSOC Daily Operations Call, Mar. 30, 2021, Mission Descriptions.

1 had been asked to move without an accompanying offer of a place to move. Nearly 60% of survey
 2 respondents said that they had been displaced by the City at least one time in just the past four
 3 weeks, and nearly 20% of all respondents had been forced to move by the City five or more times
 4 during this same short period.¹²¹

5 157. Far from the services first approach HSOC promises, in January and February 2021,
 6 HSOC connected only 30% of unhoused individuals it encountered with shelter and connected
 7 none to permanent housing.¹²²

8 158. These numbers pale in comparison to the daily SFPD and DPW sweep operations
 9 that are conducted without documentation and without even the guise of offering services to
 10 unhoused individuals.

11 **2. SFPD Continues to Cite or Arrest Thousands of Unhoused People for** 12 **Sleeping in Public Despite a Lack of Shelter.**

13 159. Public records also make it clear that SFPD is engaging in widespread enforcement
 14 of quality-of-life offenses that criminalize homelessness despite a complete lack of daily shelter
 15 availability and the fact that unhoused individuals have had no voluntary option to seek shelter
 16 from the City since April 2020. A Policy Analysis Report from the Budget and Legislative
 17 Analyst's Office to the Board of Supervisors notes that police officers have been a highly visible
 18 and active presence when encampments are cleared by the City.¹²³

19 160. For example, between July and September 2021, police were dispatched in response
 20 to "homeless complaints" (also known as 915 calls) at least 3,606 times. This data indicates that a
 21 law enforcement officer was dispatched to respond to a "homeless complaint" between 744 and
 22 965 times each month, as opposed to a HOT team worker who is theoretically trained to provide
 23

24 ¹²¹ 2022 Street Needs Assessment 25, LATINO TASK FORCE (June 16, 2022),
 25 https://www.ltfrespuetalatina.com/_files/ugd/bbc25b_99f10a84713449bd9e24e1ec89bb1c0c.pdf.

26 ¹²² Behind the Healthy Streets Operation Curtain: The True Story of San Francisco's Abusive
 27 Encampment Response, *supra* note 6, at 6.

28 ¹²³ Policy Analysis Report, *supra* note 103, at 16.

1 177. Sweeps also cause unhoused people to be displaced in large numbers. This
2 displacement—which occurs almost on a daily basis—makes it much more difficult for the
3 Coalition to stay in contact with its members or to maintain and secure new active members.
4 Defendants’ sweeps have resulted in the Coalition losing touch with countless members over the
5 past several years, and have presented significant obstacles that have prevented the Coalition from
6 being able to secure new membership.

7 178. The Coalition’s unplanned, reactive work to monitor and protect unhoused people
8 from Defendants’ sweeps has had a measurable fiscal impact on the organization. In 2018 when
9 HSOC’s sweeps began, the Coalition had to divert one staff member to work half of their time on
10 monitoring homeless sweeps—with the rest of the organization’s staff efforts focused on its
11 proactive work to advocate for housing and shelter. With the total compensation to one full-time
12 employee of \$58,244.69 (including benefits), the approximate cost to the Coalition of sweeps
13 monitoring at that time was \$29,122.34.

14 179. In 2019, however, recognizing the need for more direct monitoring, the Coalition
15 began dedicating one full-time and one part-time employee to sweep monitoring and response
16 work, with each employee spending at least half of their time monitoring sweeps. With the total
17 compensation to 1.5 full-time employees of \$90,080.66, the approximate cost to the Coalition of
18 sweeps monitoring that year increased to \$45,040.33.

19 180. In 2020, with the increased frequency and destructiveness of HSOC sweeps—even
20 with HSOC halting some regular sweep activity for four months because of the COVID-19
21 pandemic—the Coalition was again forced to increase its sweeps monitoring work to include two
22 full-time employees—each spending at least two-thirds of their time on this reactive monitoring
23 work. With the total compensation to 2 full-time employees of \$130,947.86 that year, the
24 approximate cost to the Coalition of sweeps monitoring jumped to \$86,425.58.

25 181. In 2020, the Coalition also spent \$28,000 on tents and survival belongings in the
26 face of HSOC’s sweeps to replace what the City took from unhoused people. The money the
27 Coalition used to purchase tents was from cash donations that otherwise could have been spent on
28 emergency support, payment to unhoused people for conducting and participating in surveys, and

meeting staffing needs. The staff time conducting this fundraiser likewise could have been spent on fundraising or other projects for the Coalition's core mission activities.

182. In 2021, the Coalition was forced to engage staff from all program areas to help monitor and stop Defendants' sweeps—including producing a report on sweeps, monitoring police activities at sweeps, setting up a volunteer network, and setting up administrative clinics to file claims related to property confiscated at sweeps. This required the Coalition to dedicate three full-time employees to this effort. The total cost to the Coalition of sweep monitoring during this year skyrocketed to \$134,246.56.

183. The Coalition is a small organization with a limited and fixed budget, and these expenditures substantially limit the amounts that the Coalition can spend on its proactive work to end homelessness or its campaigns to build affordable housing and shelter.

2. The Coalition's Active Members Have Experienced Defendants' Criminalization and Property Destruction First-Hand.

184. The Coalition is an advocacy organization of, by, and for unhoused people in San Francisco. Its members are comprised almost entirely of unhoused people or people with lived experience who supervise, direct, and lead the Coalition's work. The Coalition has dozens of active members at any given time and has had hundreds of active members over the years.

185. Many of the Coalition's individual members have been directly impacted by the City's criminalization and sweep policies. The Coalition's staff and volunteers engage with several members each week who have been victimized by Defendants' harmful criminalization and sweep policies. The Coalition has drafted administrative claims for property destruction against the City on behalf of several of these members—and has filed at least 23 administrative claims since September of 2021.

186. Some of the Coalition's most active members have been particularly impacted. For example, Couper Orona, Shyhyene Brown, and Toro Castaño are unhoused people who have been active members in the Coalition and help lead the Coalition's human rights working group. But each of these individuals has also lived through threats of arrest and have lost their valuable personal property in Defendants' sweeps over the last several years.

1 displace unhoused people from public property within the City without first offering shelter. In
 2 2018, for example, SFPD stated its enforcement plan as follows: “PD will be citing all individuals
 3 with tents, and DPW will take control of tents /bag and tag. HSH will be staged at Olive between
 4 Vanness and Polk at 0730 for individuals who wish to explore options to HSH.” In other words,
 5 SFPD has directly identified a practice of citing individuals first, before any clear shelter options
 6 exist, and contemplates DPW summarily seizing the belongings of unhoused individuals.
 7 Meanwhile in August 2021, the San Francisco Port authorized staff to “send roving patrol [to a
 8 reported encampment] to disperse as needed.” There was no mention of services.

9 233. Indeed, department heads sometimes specifically request enforcement instead of
 10 and without services offers. For instance, then-HSOC Director Kositsky stated clearly in an email
 11 on May 14, 2021, that “we believe enforcement is the only tool remaining” and that there was
 12 “little reason for outreach workers to return to [the area in question].” This was a blatant direction
 13 from the City for SFPD to enforce without offering services.

14 234. This custom and practice is so pervasive that it is even contained in the “mission
 15 descriptions” section of HSOC’s Daily Operations Agendas. In the meeting notes from one such
 16 meeting on April 14, 2021, “re-encampment prevention” includes the notice that, “[i]n general,
 17 sheltering options will not be offered unless there is an urgent situation.”

18 235. This is because the City is fully aware that it has no services to offer. An email from
 19 Jeff Kositsky identified the extent of the shelter shortage: “It turns out that the resource center at
 20 MSC south [the City’s largest shelter] is almost always full. People line up out front all the time
 21 waiting for the next seat to open up.” Meanwhile, in June 2019 HSH accurately reported that
 22 “shelters are full at all times now.” The City admitted in its HSOC reports that no women at
 23 homeless sweeps were offered shelter at that time: “these mats are for men only facilities and
 24 therefore could not be offered to female contacts.”

25 236. In 2020, Kositsky advocated for a policy that would explicitly warn unhoused
 26 individuals that there were no services to offer. In the notes from an HSOC principals meeting on
 27 June 11, 2020, Kositsky noted that they would need “to include message about not coming to TL
 28 [the Tenderloin district] for services and that we are taking back the streets.” Like much of the

1 communication described above, this direction from the head of HSOC places the focus on
2 enforcement rather than services.

3 237. In emails from April and May 2021, HSOC's Director Jeff Kositsky explicitly
4 advocated for SFPD to police unhoused individuals without regard to shelter: "want to see if SFPD
5 can commit to preventing [an encampment] from reforming for a few weeks." Alaric
6 Degranfinried of DPW made a similar admission in an email on June 16, 2020, in which he
7 requested that DPW coordinate with SFPD to have an area "extra cleaned...even if they'll likely
8 move right back when we're done." Degranfinried recognized that the individuals being swept had
9 nowhere else to go.

10 238. A former HOT worker confirmed that whenever he was deployed to a sweep in
11 2021, sweeps proceeded before any City agency knew how many and what kind of shelter beds
12 would be available on a given day—if at all. He confirmed that he raised these issues with his
13 supervisor, Mark Mazza, the director of HSH's HOT team, who refused to do anything.

14 239. Indeed, there were sometimes planned operations even when City officials knew
15 that no shelter was available. For instance, on October 30, 2020, Kositsky sent out a schedule that
16 included "remov[ing] all unauthorized tents" in several locations, even though shelter availability
17 for the planned day of the operation was "none."

18 240. Sam Dodge, the director of HSOC, openly admits that the City does not have
19 enough shelter to accommodate all of the unhoused individuals it enforces against on a given
20 day.¹⁴¹ Nonetheless, Mr. Dodge continues to direct HSOC to conduct unconstitutional sweep
21 operations.

22 241. This conduct extends to the very highest of City officials. For example, the Mission
23 Local reported on a sweep operation at the behest of the Mayor's Office in June 2021 because
24 Mayor Breed was to attend a fundraiser event near to where unhoused people were residing. The
25 reporting described emails from City department heads requesting "at least 18 HSH shelter beds"

26 ¹⁴¹ Laura Wenus, *supra* note 8. ("Workers with the city's Healthy Streets Operations Center clear
27 encampments when there are enough open beds in the city's shelter system to accommodate about
28 40% of that encampment's residents in shelters. According to the center's director, Sam Dodge,
the formula is adjusted each week.").

when officials knew that “40+ tents [would] be cleared.” Mayor Breed also directly instigated a sweep operation in June 2022 that resulted in the displacement of unhoused people located near the Ferry Building and the destruction of their property.¹⁴²

242. Throughout 2021 and ending in February 2022, the City Attorney’s Office conducted ongoing negotiations with the Coalition on Homelessness and various other advocacy groups regarding the City’s repeated property destruction practices. The result was to be an update to DPW’s written bag and tag policies to better safeguard the property of unhoused individuals—including additional notice prior to property seizure, explicit protections for larger bulky items such as tents and other survival belongings, and photographing of disputed property prior to destruction. But DPW’s published policy on its website had remained unchanged from 2016, there are no reports that staff have been trained on the new policies, and the unlawful custom and practice of unnoticed destruction and enforcement continues.

P. Individual Plaintiffs Have Been Subject To, And Are At Ongoing Risk of Being Subject to, the City’s Unconstitutional Criminalization and Property Destruction.

243. Individual Plaintiffs Nathaniel Vaughn, Toro Castaño, Molique Frank, Teresa Sandoval, David Martinez, Sarah Cronk, and Joshua Donohoe (“Individual Plaintiffs”) have been directly impacted by Defendants’ criminalization and sweep policies. Individual Plaintiffs are all people who are currently unhoused or who are at imminent risk of becoming unhoused again. Several are active members with the Coalition on Homelessness. All Individual Plaintiffs have lived through threats of arrest and have lost their valuable personal property as a result of Defendants’ sweeps over the last several years. They fear the same will recur without intervention to stop the City’s unconstitutional practices.

244. **Nathaniel Vaughn.** Nathaniel Vaughn’s property was destroyed by the City on January 8, 2020, while he was homeless and staying near Jerrald Avenue and Evans Avenue on Rankin Street. Though he had gone to visit his mother at her SRO and so was not present when the sweep began, he had left his tent clean and his belongings neatly packed inside. Nonetheless,

¹⁴² David Sjostedt, *supra* note 26.

conformance with the Fourth, Eighth, and Fourteenth Amendments to the U.S. Constitution;
Article I, §§ 7(a), 13, and 17 of the California Constitution;

b. Issue a mandatory order requiring Defendants to reasonably modify their programs
to avoid any continued discrimination against unhoused people, pursuant to 42 U.S.C. § 12131
and Cal. Gov. Code § 11135;

c. Issue a mandatory order requiring Defendants to submit to regular monitoring and
compliance checks by the Court at Defendant's expense;

Other Relief:

a. Order Defendants to pay for Plaintiffs' attorneys' fees and costs; and

b. Grant Plaintiffs such further relief as the Court deems just and proper.

Dated: June 6, 2023

Respectfully submitted,

By: /s/ Zal K. Shroff

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ATTESTATION

I, Alfred C. Pfeiffer, Jr., am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(h)(3), I attest that all signatories to this document have concurred in this filing.

Dated: June 6, 2023

/s/ Alfred C. Pfeiffer
Alfred C. Pfeiffer, Jr.